

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS
BOSTON DIVISION**

Sergey V. Kofman, Plaintiff)
)
v.)
Michael Chertoff,)
Secretary of the United States)
Department of Homeland Security,)
)
Eduardo Aguirre, Jr., Director,)
United States Citizenship and)
Immigration Services)
and)
Denis Riordan, District Director,)
United States Citizenship and)
Immigration Services)
Defendants)

Case No. A-74-907-144

05 11597 MLW

RECEIPT # 65939
AMOUNT \$ 250.00
SUMMONS ISSUED 3
LOCAL RULE 4.1 -
WAIVER FORM -
MCF ISSUED -
BY DPTY. CLK. CIP
DATE 7/29/03

MAGISTRATE JUDGE

JLA

**PLAINTIFF'S ORIGINAL COMPLAINT
FOR WRIT IN THE NATURE OF MANDAMUS**

**AND PETITION FOR HEARING ON NATURALIZATION APPLICATION
UNDER 8 USC §1447(b)**

COMES NOW Sergey V. Kofman, Plaintiff in the above-styled and numbered cause, and for cause of action would show unto the Court the following:

)34

1. This action is brought against the Defendants to compel action on an application for naturalization properly filed by the Plaintiffs. In the alternative, Plaintiff moves this Honorable Court to adjudicate the Application, based on the authority granted to this Court by 8 U.S.C. § 1447(b). The application was filed and remains within the jurisdiction of the Defendants, who have improperly withheld action on said application to Plaintiff's detriment.

PARTIES

2. Plaintiff SERGEY V. KOFLMAN is a native of Russia and a permanent resident of the United States since 01/30/1997. Upon fulfilling the 5-year physical presence requirement, as mandated by 8 USC §1427, Mr. Kofman applied for naturalization in September 2003.

3. Defendant Michael Chertoff is Secretary of the United States Department of Homeland Security (hereinafter "DHS"), and this action is brought against him in his official capacity. He is generally charged with enforcement of the Immigration and Nationality Act, and is further authorized to delegate such powers and authority to subordinate employees of the DHS. 8 USC §1103(a). The United States Citizenship and Immigration Services (hereinafter "CIS") is an agency within the DHS to whom the Secretary's authority has in part been delegated, and is subject to the Secretary's supervision.
4. Defendant Director Eduardo Aguirre, Jr. is an official of the CIS generally charged with supervisory authority over all operations of the CIS within the CIS with certain specific exceptions not relevant here. 8 CFR §103.1(g)(2)(ii)(B). As will be shown, Defendant Director is the official with whom Plaintiffs' application for lawful permanent resident status was properly filed.
5. Defendant District Director Denis Riordan is an official of the CIS generally charged with supervisory authority over all operations of the CIS within his District with certain specific exceptions not relevant here. 8 CFR §103.1(g)(2)(ii)(B). As will be shown, Defendant District Director is the official with whom Plaintiffs' application for naturalization is currently pending.

JURISDICTION

6. Jurisdiction in this case is proper under 28 U.S.C. §§1331 and 1361, 5 U.S.C. §701 *et seq.*, and 28 U.S.C. §2201 *et seq.*, as well as 8 U.S.C. § 1447(b), which states, in pertinent part:

If there is a failure to make a determination under [INA] §335 [8 U.S.C. §1446] before the end of the 120-day period after the date on which the examination is conducted under such section, the applicant may apply to the United States District Court for the District in which the applicant resides for a hearing on the matter. Such court has jurisdiction over the matter and may either determine the matter or remand the matter, with appropriate instructions to the Service to determine the matter.

Relief is requested pursuant to said statutes.

VENUE

7. Venue is proper in this court, pursuant to 28 USC §1391(e), in that this is an action against officers and agencies of the United States in their official capacities, brought in the District where a Defendant resides and where a substantial part of the events or

omissions giving rise to Plaintiff's claim occurred. More specifically, Plaintiff's application for naturalization was properly filed and, to Plaintiff's knowledge, remains pending with the Boston CIS District Director.

EXHAUSTION OF REMEDIES

8. Plaintiff has exhausted his administrative remedies. Plaintiff has, through his attorney, made numerous inquiries concerning the status of the application to no avail.

CAUSE OF ACTION

9. All legal prerequisites having been satisfied, Plaintiff applied for naturalization with the CIS Vermont Service Center in September, 2003. Upon the initial processing of the case, and the completion of the required fingerprint check, the case was forwarded to the Boston CIS District Office for the interview.
11. Plaintiff was interviewed for his naturalization application on May 27, 2004, by CIS Officer Collier. At that time the adjudications officer informed Plaintiff that the application would be approved as soon as some additional security checks cleared. After repeated inquiries, Plaintiff has been informed through his counsel that said checks are still pending.
12. In March 2005, Plaintiff received a second fingerprint notification from CIS. He promptly appeared for the scheduled fingerprint appointment and had his fingerprints taken again. **Based on the information from the Federal Bureau of Investigations, the FBI received Plaintiff's fingerprints on March 18, 2005, and forwarded them to the Boston CIS District electronically on the same day.**
13. Defendants have sufficient information to determine Plaintiff's eligibility pursuant to applicable requirements. To date, said application has not been adjudicated.
13. Defendants' refusal to act in this case is, as a matter of law, arbitrary and not in accordance with the law. Defendants willfully, and unreasonably, have delayed in and have refused to, adjudicate Plaintiff's applications for almost two years, thereby depriving him of the right to a decision on his status and the peace of mind to which Plaintiff is entitled.
14. Plaintiff has been greatly damaged by the failure of Defendants to act in accord with their duties under the law.
 - (a) Plaintiff has further been damaged in that he continues to invest his time and money to make repeated case inquiries from abroad, where Plaintiff is currently

working for the General Electric Company. Plaintiff has also been forced to fly to the United States to keep his second fingerprint appointment, which had resulted from the naturalization application pending for such a long period of time.

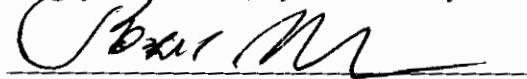
- (b) Plaintiff has further been damaged by being deprived of the status of United States Citizen during the interminable pendency of his application.
15. The Defendants, in violation of the Administrative Procedures Act, 5 USC §701 *et seq.*, is unlawfully withholding or unreasonably delaying action on Plaintiff's application and have failed to carry out the adjudicative functions delegated to them by law with regard to Plaintiff's case.
16. Plaintiff has made numerous status inquiries in an attempt to secure adjudication of his application, all to no avail. Accordingly, Plaintiff has been forced to retain the services of an attorney to pursue the instant action.

PRAYER

17. WHEREFORE, in view of the arguments and authority noted herein, Plaintiff respectfully prays that the Defendants be cited to appear herein and that, upon due consideration, the Court enter an order:

- (a) Adjudicating Plaintiff's Application for Naturalization pursuant to 8 U.S.C. § 1447(b), or, in the alternative,
- requiring Defendants to adjudicate Plaintiff's application for naturalization pursuant to the Writ of Mandamus;
- (b) awarding Plaintiff reasonable attorney's fees; and
 - (c) granting such other relief at law and in equity as justice may require.

Respectfully submitted,
Sergey V. Kofman, by his Attorney



Boris B. Maiden, Esq.
Law Office of Boris B. Maiden
251 Harvard Street, Suite 1
Brookline, MA 02446
617 739 6977
617 739 6774

LIST OF ATTACHMENTS

Exhibit Description

- A CIS Request for Applicant to Appear for Naturalization Interview on 05/27/2004;
- B CIS Naturalization Interview Results;
- C CIS Fingerprint Notification (2nd);

U.S. Department of Justice
Immigration and Naturalization Service

Notice of Action



Request for Applicant to Appear for Naturalization Initial Interview			NOTICE DATE January 28, 2004						
CASE TYPE N400 Application For Naturalization			INS AA A 074 907 144						
APPLICATION NUMBER ESC*001089067	RECEIVED DATE September 05, 2003	PRIORITY DATE September 05, 2003	PAGE 1 of 1						
<p>APPLICANT NAME AND MAILING ADDRESS SERGEY VLADIMIR KOFMAN 22 SEA BREEZE LN APT B NAHANT MA 01908</p> <p>Please come to: US INS GOVERNMENT CENTER JFK FEDERAL BUILDING ROOM 1 BOSTON MA 02203</p> <p>On (Date): Thursday, May 27, 2004 At (Time): 01:00 PM</p>									
<p>You are hereby notified to appear for an interview on your Application for Naturalization at the date, time, and place indicated above. Waiting room capacity is limited. Please do not arrive any earlier than 30 minutes before your scheduled appointment time. The proceeding will take about two hours. If for any reason you cannot keep this appointment, return this letter immediately to the INS office address listed below with your explanation and a request for a new appointment; otherwise, no further action will be taken on your application.</p> <p>If you are applying for citizenship for yourself, you will be tested on your knowledge of the government and history of the United States. You will also be tested on reading, writing, and speaking English, unless on the day you filed your application, you have been living in the United States for a total of at least 20 years as a lawful permanent resident and are over 50 years old, or you have been living in the United States for a total of 15 years as a lawful permanent resident and are over 55 years old, or unless you have a medically determinable disability (you must have filed form N648 Medical Certification for Disability Exception, with your N400 Application for Naturalization).</p> <p>You MUST BRING the following with you to the interview:</p> <ul style="list-style-type: none"> • This letter. • Your Alien Registration Card (green card). • Any evidence of Selective Service Registration. • Your passport and/or any other documents you used in connection with any entries into the United States. • Those items noted below which are applicable to you: <p>If applying for NATURALIZATION AS THE SPOUSE of a United States Citizen;</p> <ul style="list-style-type: none"> • Your marriage certificate. • Proof of death or divorce for each prior marriage of yourself or spouse. • Your spouse's birth or naturalization certificate or certificate of citizenship. <p>If applying for NATURALIZATION as a member of the United States Armed Forces;</p> <ul style="list-style-type: none"> • Your discharge certificate, or form DD 214. <p>If copies of a document were submitted as evidence with your N400 application, the originals of those documents should be brought to the interview.</p> <p>PLEASE keep this appointment, even if you do not have all the items indicated above.</p>									
<p>If you have any questions or comments regarding this notice or the status of your case, please contact our office at the below address or customer service number. You will be notified separately about any other cases you may have filed.</p> <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%; vertical-align: top;"> INS Office Address: US IMMIGRATION AND NATURALIZATION SERVICE JFK FEDERAL BUILDING GOVERNMENT CENTER BOSTON MA 02203 </td> <td style="width: 50%; vertical-align: top;"> INS Customer Service Number: (800) 375-5283 </td> </tr> <tr> <td colspan="2" style="text-align: center; vertical-align: middle;"> APPLICANT COPY </td> </tr> <tr> <td colspan="2" style="text-align: center; vertical-align: middle;"> </td> </tr> </table>				INS Office Address: US IMMIGRATION AND NATURALIZATION SERVICE JFK FEDERAL BUILDING GOVERNMENT CENTER BOSTON MA 02203	INS Customer Service Number: (800) 375-5283	APPLICANT COPY			
INS Office Address: US IMMIGRATION AND NATURALIZATION SERVICE JFK FEDERAL BUILDING GOVERNMENT CENTER BOSTON MA 02203	INS Customer Service Number: (800) 375-5283								
APPLICANT COPY									

S. Department of Justice
Immigration and Naturalization Service

Naturalization Interview Results

A #: 074 901144

In 5/27/04 you were interviewed by INS Officer Collier

You passed the tests of English and U.S. history and government.

You passed the test U.S. history and government and the English language requirement was waived.

The Service has accepted your request for a Disability Exception. You are exempted from the requirement to demonstrate English language ability and/or knowledge of U.S. history and government.

You will be given another opportunity to be tested on your ability to speak/ read/ write English.

You will be given another opportunity to be tested on your knowledge of U.S. history and government.

Please follow the instructions on the Form N-14.

INS will send you a written decision about your application.

You did not pass the second and final test of your English ability/ knowledge of U.S. history and government. You will not be rescheduled for another interview for this N-400. INS will send you a written decision about your application.

A) Congratulations! Your application has been recommended for approval. At this time, it appears that you have established your eligibility for naturalization. If final approval is granted, you will be notified when and where to report for the Oath Ceremony.

B) A decision cannot yet be made about your application.

It is very important that you:

- ✓ Notify INS if you change your address.
- ✓ Come to any scheduled interview.
- ✓ Submit all requested documents.
- ✓ Send any questions about this application in writing to the officer named above. Include your full name, A-number, and a copy of this paper.
- ✓ Go to any oath ceremony that you are scheduled to attend.
- ✓ Notify INS as soon as possible in writing if you cannot come to any scheduled interview or oath ceremony. Include a copy of this paper and a copy of the scheduling notice.



Immigration and Naturalization Service

SCREBY KOPMAN
22 SEA BREEZE LANE
NAITANT, MA 01908

John Fitzgerald Kennedy Federal Building
Government Center
Boston, Massachusetts 02203

PLEASE REFER TO THIS FILE NUMBER

A 074 907 144.

3/3/05

FINGERPRINT NOTIFICATION

Dear Applicant:

To continue processing your application, INS must send your fingerprints to the Federal Bureau of Investigation for a criminal history check. Every applicant who was between the ages of 14-75 at the time of filing must have their fingerprints taken at an INS Application Support Center. You are scheduled for fingerprinting at the location listed below:

Address	Hours of Operation	WEEK OF:
U.S. Immigration & Naturalization Service 170 Portland Street Boston, Ma 02201	Sun. - Mon. CLOSED Tue. - Sat. 8am-4pm	3/15/2005 thru 3/19/2005

If you cannot go to the INS Application Support Center during your scheduled 7 day period, you may go on any Wednesday, as long as you have your fingerprints taken within 84 days of the date of your notice. If you do not have them taken within that period, your application may be considered abandoned pursuant to 8 CFR 103.2(b)(13).

When you go to have your fingerprints taken, you must bring: 1) THIS LETTER; 2) photo identification, such as your Alien Registration Card, passport, valid driver's license, national ID, military ID, State-issued photo ID, or other INS issued photo ID. If you do not bring this letter and proper photo identification, you will not be permitted to have your fingerprints taken. This may cause a delay in the processing of your application.

Please take note that the staff at the INS fingerprinting center will not be able to answer any questions about the status of your application. We appreciate your patience during this process.

Cc:

CERTIFICATE OF SERVICE

I, Boris B. Maiden, attorney for the plaintiff, Sergey V. Kofman, hereby certify that on this 29th day of July, 2005, I have caused a true and accurate copy of the foregoing **Complaint**, to be mailed, postage pre-paid to the following defendants:

Alberto Gonzales
Attorney General
U.S. Department of Justice
950 Pennsylvania Ave, NW
Washington, DC 20530-0001

Office of the General Counsel
U.S. Department of Homeland Security
Washington, DC 20528

Robert Divine
U.S. Citizenship & Immigration Services
20 Massachusetts Ave. NW
Washington, DC 20529

Denis Riordan
District Director
U.S. Citizenship & Immigration Services
JFK Federal Building
15 Sudbury Street
Boston, MA 02203



Boris Maiden

JS 44 (Rev. 11/04)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

Sergey V. Kotman

(b) County of Residence of First Listed Plaintiff
(EXCEPT IN U.S. PLAINTIFF CASES)(c) Attorney's (Firm Name, Address, and Telephone Number)
LAW OFFICE OF BORIS B. MAIDEN 617-739-6977
251 Harvard St., Ste. 1, Brookline, MA 02446**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- | | |
|---|---|
| <input type="checkbox"/> 1 U.S. Government Plaintiff | <input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party) |
| <input checked="" type="checkbox"/> 2 U.S. Government Defendant | <input type="checkbox"/> 4 Diversity
(Indicate Citizenship of Parties in Item III) |

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

	PTF	DEF		PTF	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	PERSONAL INJURY	PERSONAL INJURY	<input type="checkbox"/> 610 Agriculture	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 362 Personal Injury - Med. Malpractice	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 365 Personal Injury - Product Liability	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	PROPERTY RIGHTS	<input type="checkbox"/> 450 Commerce
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 330 Federal Employers' Liability	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 820 Copyrights	<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 480 Consumer Credit
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 385 Property Damage Product Liability	SOCIAL SECURITY	<input type="checkbox"/> 490 Cable/Sat TV
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 390 Other Personal Injury	<input type="checkbox"/> 861 HIA (1395ff)	<input type="checkbox"/> 810 Selective Service
<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 400 Other Civil Rights	<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 850 Securities/Commodities/ Exchange
<input type="checkbox"/> 195 Contract Product Liability			<input type="checkbox"/> 863 DIWC/DIWW (405(g))	<input type="checkbox"/> 875 Customer Challenge 12 USC 3410
<input type="checkbox"/> 196 Franchise			<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/> 890 Other Statutory Actions
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	<input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 891 Agricultural Acts
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 510 Motions to Vacate Sentence	FEDERAL TAX SUITS	<input type="checkbox"/> 892 Economic Stabilization Act
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 442 Employment	Habess Corpus:	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	<input type="checkbox"/> 893 Environmental Matters
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 443 Housing/ Accommodations	<input type="checkbox"/> 530 General	<input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 894 Energy Allocation Act
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 444 Welfare	<input type="checkbox"/> 535 Death Penalty		<input type="checkbox"/> 895 Freedom of Information Act
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 445 Amer. w/Disabilities - Employment	<input type="checkbox"/> 540 Mandamus & Other		<input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice
<input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 446 Amer. w/Disabilities - Other	<input type="checkbox"/> 550 Civil Rights		<input type="checkbox"/> 950 Constitutionality of State Statutes
	<input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 555 Prison Condition		

V. ORIGIN

(Place an "X" in One Box Only)

- | | | | | | | |
|---|---|--|---|--|---|----------------------------|
| <input checked="" type="checkbox"/> 1 Original Proceeding | <input type="checkbox"/> 2 Removed from State Court | <input type="checkbox"/> 3 Remanded from Appellate Court | <input type="checkbox"/> 4 Reinstated or Reopened | <input type="checkbox"/> 5 Transferred from another district (specify) _____ | <input type="checkbox"/> 6 Multidistrict Litigation | <input type="checkbox"/> 7 |
|---|---|--|---|--|---|----------------------------|

Appeal to District Judge from Magistrate Judgment

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): 8 USC § 1447(b)

VI. CAUSE OF ACTION

Brief description of cause: Defendants unreasonably delay adjudication of naturalization application

VII. REQUESTED IN COMPLAINT: CHECK IF THIS IS A CLASS ACTION
UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

7/29/05

SIGNATURE OF ATTORNEY OF RECORD

[Signature]

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFFP

JUDGE

MAG. JUDGE

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS1. Title of case (name of first party on each side only) Sergey V. Kofman v. Michael Chertoff, DHS

2. Category in which the case belongs based upon the numbered nature of suit code listed on the civil cover sheet. (See local rule 40.1(a)(1)).

- I. 160, 410, 470, 535, R.23, REGARDLESS OF NATURE OF SUIT.
- II. 195, 196, 368, 400, 440, 441-446, 540, 550, 555, 625, 710, 720, 730, *Also complete AO 120 or AO 121
740, 790, 791, 820*, 830*, 840*, 850, 890, 892-894, 895, 950. for patent, trademark or copyright cases
- III. 110, 120, 130, 140, 151, 190, 210, 230, 240, 245, 290, 310,
315, 320, 330, 340, 345, 350, 355, 360, 362, 365, 370, 371,
380, 385, 450, 891.
- IV. 220, 422, 423, 430, 460, 480, 490, 510, 530, 610, 620, 630, 640, 650, 660,
690, 810, 861-865, 870, 871, 875, 900.
- V. 150, 152, 153.

05 11597 MLW

3. Title and number, if any, of related cases. (See local rule 40.1(g)). If more than one prior related case has been filed in this district please indicate the title and number of the first filed case in this court.

4. Has a prior action between the same parties and based on the same claim ever been filed in this court?

YES NO

5. Does the complaint in this case question the constitutionality of an act of congress affecting the public interest? (See 28 USC §2403)

YES NO

If so, is the U.S.A. or an officer, agent or employee of the U.S. a party?

YES NO

6. Is this case required to be heard and determined by a district court of three judges pursuant to title 28 USC §2284?

YES NO

7. Do all of the parties in this action, excluding governmental agencies of the united states and the Commonwealth of Massachusetts ("governmental agencies"), residing in Massachusetts reside in the same division? - (See Local Rule 40.1(d)).

YES NO

A. If yes, in which division do all of the non-governmental parties reside?

Eastern Division Central Division Western Division

B. If no, in which division do the majority of the plaintiffs or the only parties, excluding governmental agencies, residing in Massachusetts reside?

Eastern Division Central Division Western Division

8. If filing a Notice of Removal - are there any motions pending in the state court requiring the attention of this Court? (If yes, submit a separate sheet identifying the motions)

YES NO

(PLEASE TYPE OR PRINT)

ATTORNEY'S NAME LAW OFFICE OF BORIS B. MAIDENADDRESS 251 Harvard Street, Ste. 1, Brookline, MA 02446TELEPHONE NO. 617-739-6977